

**12057. Adulteration and misbranding of apples. U. S. v. Josiah C. Howard (W. E. Howard & Sons). Plea of guilty. Fine, \$25. (F. & D. No. 17059. I. S. Nos. 6050-t, 6076-t.)**

On March 6, 1923, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Josiah C. Howard, trading as W. E. Howard & Sons, Holley, N. Y., alleging shipment by said defendant, in violation of the Food and Drugs Act, in two consignments, namely, on or about March 9 and 14, 1922, respectively, from the State of New York into the State of Pennsylvania, of quantities of apples which were adulterated and misbranded. The article was labeled in part: "New York Standard A Baldwins. Min. Size  $2\frac{1}{2}$  In. Packed by W. Newman LeRoy, N. Y. Min. Vol. 3 Bus."

Examination by the Bureau of Chemistry of this department of certain barrels from each consignment showed that the said barrels contained many apples that were under the size declared on the label, many that were infested with insects, and some that were badly rusted. Certain of the barrels examined contained apples which were wholly without color.

Adulteration of the article was alleged in the information for the reason that apples of a lower grade and quality than New York Standard A and of less than  $2\frac{1}{2}$  inches in diameter each had been substituted in part for New York Standard A apples of  $2\frac{1}{2}$  inches in diameter each, which the said article purported to be.

Misbranding was alleged for the reason that the statement, to wit, "New York Standard A \* \* \* Min. Size  $2\frac{1}{2}$  In.," borne on the barrels containing the article, regarding the said article, was false and misleading in that it represented that the said barrels contained only New York Standard A apples of at least  $2\frac{1}{2}$  inches in diameter each, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the said barrels contained only New York Standard A apples of at least  $2\frac{1}{2}$  inches in diameter each, whereas, in truth and in fact, said barrels did not contain only New York Standard A apples of at least  $2\frac{1}{2}$  inches in diameter each but contained in part apples of a lower grade and quality and contained in part apples of less than  $2\frac{1}{2}$  inches in diameter each.

On November 13, 1923, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$25.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

**12058. Adulteration of grapefruit. U. S. v. 30 Dozen Boxes of Grapefruit. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 17836. I. S. No. 853-v. S. No. E-4494.)**

On September 28, 1923, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 30 dozen boxes of grapefruit, at New York, N. Y., alleging that the article had been shipped by P. B. Armstrong, from Palmetto, Fla., September 21, 1923, and transported from the State of Florida into the State of New York, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Lion Brand."

Adulteration of the article was alleged in the libel for the reason that immature grapefruit, artificially colored, had been mixed and packed with and substituted for the article. Adulteration was alleged for the further reason that the article was colored in a manner whereby damage or inferiority was concealed.

On October 17, 1923, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

**12059. Misbranding of Foley kidney pills. U. S. v.  $14\frac{1}{2}$  Dozen Bottles of Foley Kidney Pills. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 18018. S. No. E-4576.)**

On November 15, 1923, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of  $14\frac{1}{2}$  dozen bottles of Foley kidney pills, at Baltimore, Md., alleging that the article had been shipped by Foley & Co., from Chicago, Ill., on or about July 11, 1923, and transported from the State of Illinois into the State